STATE OF LOUISIANA

GROUND WATER MANAGEMENT COMMISSION

IN RE: GROUND WATER

MANAGEMENT COMMISSION

MEETING

REPORT OF MEETING

HELD AT

BATON ROUGE, LOUISIANA

DECEMBER 4, 2002

STATE OF LOUISIANA

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MEETING

Report of the meeting of the Ground Water Management Commission, State of Louisiana, on December 4, 2002, in Baton Rouge, Louisiana.

COMMISSION MEMBERS IN ATTENDANCE:

Karen Gautreaux, Chairman

James Welsh, Department of Natural Resources

George Cardwell, Capital Area Ground Water Commission

William "Bill" Cefalu, Police Jury Association

Richard Durrett, Sparta Groundwater Conservation District

Durwood Franklin, Department of Environmental Quality

Karen Irion, Department of Health and Hospitals

Michael Taylor, Department of Economic Development

Fulbert Leon Namwamba, Geologist

Brad Spicer, Agriculture & Forestry

John Roussel, Department of Wildlife & Fisheries

Linda Zaunbrecher, Farm Bureau Member

AGENDA

I. Call to Order - Karen Gautreaux

II. Update on staff activities - Tony Duplechin

III. C.H. Fenstermaker & Associates - Final presentation of Part II, "Assistance in Developing a Statewide Water Management Plan."

IV. Ground Water Management Commission and Advisory Task Force Question and Comment.

V. Old Business.

VI. New Business.

VII. Public Question and Comment.

VIII. Schedule for upcoming meetings.

IX. Adjourn

GROUND WATER MANAGEMENT COMMISSION MEETING

DECEMBER 4, 2002

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COMMISSIONER GAUTREAUX:

I'll call the meeting to order. I'm Karen Gautreaux. I serve as chair of the Ground Water Management Commission and Advisory Task Force. Today we're having a joint meeting, and I would like to ask that everyone make sure that they have checked in the sign-in sheets, and especially our Task Force members, although we want to welcome the public that are here today.

What I'll do is ask the Commissioners to identify themselves, and then for those that are new to the process, maybe ask the Task Force members to raise -- I'll ask you to raise your hand so people can recognize who is on the Task Force. We'll start. Durwood?

COMMISSIONER FRANKLIN:

Durwood Franklin representing the Department of Environmental Quality.

COMMISSIONER ZAUNBRECHER:

Linda Zaunbrecher, Louisiana Farm Bureau.

COMMISSIONER CARDWELL:

George Cardwell, Capital Area Ground Water Conservation Commission.

COMMISSIONER TAYLOR:

Mike Taylor, Louisiana Economic Development.

COMMISSIONER WELSH:

Jim Welsh, Office of Conservation.

COMMISSIONER ROUSSEL:

John Roussel, Department of Wildlife and Fisheries.

COMMISSIONER CEFALU:

Bill Cefalu, Police Jury Association representative.

COMMISSIONER NAMWAMBA:

Fulbert Namwamba, geologist/engineer.

COMMISSIONER IRION:

Karen Irion, Department of Health and Hospitals.

COMMISSIONER DURRETT:

Richard Durrett, Sparta Groundwater Conservation District.

COMMISSIONER GAUTREAUX:

Thank you. I'll just ask our Task Force members to raise your hands, and I know you signed in. Thank you very much. Thanks again, everybody, for joining us on a non-motivating day as far as the weather goes.

Tony, would you give us the Staff activities update?

MR. DUPLECHIN:

We've had a few more water well information sheets came in since we met two weeks ago. As far as the website updates go, the audio from the critical groundwater area designation hearing that was held in Ruston on November 19th is now available on the Commission's website. And I have a few sets of the audio CDs if anybody wants them. It's not quite three hours and 45 minutes of audio, and it takes up the better part of three CDs. So see me after the meeting

and I'll get one to you.

As far as meetings over the last two weeks, Tim Seiler of my staff attended a conference titled "Water as a Resource; Legal Policy and Economic Issues," which was hosted by the American Society for Environmental Sciences. And he also went to a meeting yesterday of the Capital Area Groundwater Conservation Commission's technical committee. And for the last two weeks the staff has spent a lot of time following up on the hearing in Ruston and preparing the implementation plan for the Comprehensive Water Management System, draft of the implementation plan, which must be submitted to the Legislative Oversight Committee by the end of this month.

And finally, I think I may have neglected the last time we met to tell everyone that we do have the brochures printed up, and we have more than an ample supply, so please feel free to pick up a couple of hundred of each brochures on your way out after the meeting. That completes my report.

COMMISSIONER GAUTREAUX:

Do we have any questions for Tony about his report?

(No response.)

Thank you. Let's move on to the next item then. That's the presentation, the final presentation of Part II from C.H. Fenstermaker and Associates of our State Ground Water Management Plan. Raymond?

MR. REAUX:

Good afternoon. Thank you for welcoming us again

to the Commission. If you're looking for Brad Hamilton, I'm not him. I'm Raymond Reaux, and he's unfortunately at a seminar today and was unable to make it, so I'm going to pinch hit for him today. A couple people here, though some don't need introduction, there's Bruce Darling there with LBG-Guyton; and Brent Sonnier with the Onebane Group; Jessica Cornay with Fenstermaker; Stewart Stover with Hydro-Environmental; and Dr. Ehab Meselhe is here somewhere in the bunch. These are some names and faces you've seen throughout the project, and these are the individuals that are here today to answer questions and talk about Part II.

Just a few things I'd like to say before we kind of get started with the PowerPoint presentation is, as of today, for those of you who have not made it to the website, which is www.LA-water.org, chapters 6, 7, 8, 10, 11, 12, and the appendices are available for your review today and now. If you care to download them they are in the .pdf format. Chapter 9 is not on the Web, and though we're not giving an award, if you read every other chapter and get to 9 and stop, please call us and we'll have it done. We think we'll have that on the Web as of Friday.

We are going to deliver the final product to Tony's office Friday, the bound copy of Part II for distribution for your purposes of reading in addition if you don't get it off the Web, and we'll be, obviously, meeting with you not this Friday but next.

That's all that I have at the moment, and unless

there's a question I think we're going to start with Bruce and begin the presentation.

MR. DARLING:

This is our final report on the Louisiana Comprehensive Water Management Plan. Bear in mind that this is not actually the plan, this is the framework for the plan. This is the material that Senator Hoyt and Representative Daniel and Senator Cain and others will take, along with others, and fashion a report from, or rather a plan from. Again, team members here are Fenstermaker and Associates, LBG-Guyton Associates, the Onebane Law Firm, and Hydro-Environmental Technology.

Part II consists of chapters 6 through 12. I'm going to run you through what we've done to the chapters here, and then just briefly give you an overview of the high points in these chapters. Chapter 6 really isn't a new chapter. It's an expansion of the original chapter 6. What we have done here is we've revised it to include a new definition of critical areas and add other new definitions to help clarify matters, but specifically, definitions related to a potential critical groundwater area, groundwater stress area, and groundwater emergency. This is now posted on the website. I'm going to talk a little bit about some of these definitions, but Brent, I think, will go into more depth in his presentation.

Chapter 7 deals with water management strategies. What we've done here is we looked at the number of

approaches to managing groundwater, both technical -- technical approaches, and we've also look at various other applications of economics, for example, and other policy instruments that can be applied in the management of groundwater resources. We've identified 25 of these. There are obviously a great many more than that, but we have written up descriptions of 25 of the strategies that we thought would be most relevant to Louisiana. The descriptions run about a page and a half to two pages each for most of them and this is also posted in the project website.

This is important because the strategies that you read here show up in chapter 8 in what we call the preference feasibility analysis. I've talked about this before. The preference feasibility analysis was a survey, a questionnaire that we sent out around the state to 400, more than 400 potential respondents asking them to gauge their -- give us their opinions of the preference for given strategies and their assessments of the feasibility of implementing these strategies. We analyzed the results from three perspectives; a statewide perspective, a regional perspective, and from the perspective of different stakeholder groups. That is also posted on the website.

Chapter 9 is an evaluation of these strategies. Here we're looking at the strategies that we -- as they were evaluated in the P-FA. We're looking specifically at strategies that we think would be most recommended in Louisiana. We're following up with a

discussion of conservation, incentives, and public education, giving guidelines for that. That's also -- chapter 9 is in the works and will be posted by Friday at the very latest.

Chapter 10 deals with legal and interjurisdictional issues. This is a description of the key legal interjurisdictional issues in Louisiana and some of the surrounding states that you'll have to deal with when you're trying to develop a water management plan. Brent, of course, will address that in some detail.

Chapter 11 deals with comprehensive water management, and here this addresses the recommended structure of the agency to manage groundwater resources in Louisiana. It also includes descriptions -- it also includes job descriptions and our estimated operating budget. That's also posted on the website.

And chapter 12 is the emergency use and contingency planning or drought planning in Louisiana. It's a discussion of drought planning and emergency planning. We have a recommended approach to drought planning in Louisiana. We've modeled this after the Oklahoma drought plan. We looked at a great many drought plans in the United States and liked the organization of the Oklahoma plan, and took that and structured it to fit into Louisiana. It's a nice, orderly way to manage water resources in a drought situation, and that has been posted for some time.

Some of the key issues here, as I said, in chapter 6 we included a definition, a revised

definition of a critical area. This was the original definition of a critical area. We pointed out some time ago that there were some shortcomings there and requested the help of the technical committee of the Task Force, which was convened by Charlie Demas of the U.S. Geological Survey. He and the members of the Task Force met and came up with this definition, which we think is a bit more workable, because it brings up a -- it points out some things that need to be addressed in the definition of a critical area that are not found in the current definition. Specifically, where we say here that a critical groundwater area shall mean an area under which under current usage and normal environmental conditions, sustainability of an aquifer is not being maintained due to either movement of unacceptable environmental, social, economic, or health impacts or causing a serious adverse impact to an aquifer with the area defined by the aerial and temporal extent of all such impacts.

The definitions which we've added here are, as I said, definitions for a potential critical groundwater area, groundwater stress area and groundwater emergency. Brent will go into those.

The management strategies were interesting here. This allows us to discuss -- in this chapter we discussed the objectives of water conservation programs around the United States, and then we defined these management strategies as so-called efficiency strategies, which are defined as actions or techniques

designed to result in a more efficient use of water. And we took the concept of efficiency strategies and divided them into two other approaches here; efficiency measures, which are defined as tools, devices, and practices that result in an efficient use of water, and efficiency incentives, which are actions or policies that promote conservation and encourage the use of efficiency measures.

The efficiency strategies can be divided into 19 efficiency measures, which we subdivide into the following groups: new and/or alternate sources of water; water conservation technologies; and management initiatives and regulations. There are six efficiency incentives which deal with our -- are divided into two groups, the information programs and economic incentives. As I said, all of these are discussed in some detail in chapter 7.

Chapter 8 is a preference feasibility analysis of management strategies. This might not mean anything without all the numbering that should go along with it, but this is the statewide P-FA action grid, in which we post the rankings of feasibility and preference scores, all of which are ranked -- each of which is ranked on a scale of 1 to 5.

About the P-FA, as I said, we sent out more than 400 questionnaires. We received 227 responses, or a response rate of 52 percent. If we break it down by stakeholder group, there were 140 responses statewide from agriculture, there were 29 from public supply, there were 21 representing industry, and 30

representing other groups. Now, "other" in this case represents public interest. It represents environmental groups, anybody we couldn't put clearly into the other groups. And if we break it down by region, Region 1, which is the parishes in Louisiana north of Rapides, there were 81 responses from Region 1. Region 2, which covers the southwestern Louisiana area, there were 78 responses, and in Region 3, there were 68 responses. So while by stakeholder, the agriculture group dominated; by region, there was a fairly even distribution among the regions.

We found that the highest regional statewide scores for the strategies were given to public education, conservation, tax incentives, and alternative sources of supply; whereas, the lowest regional and statewide scores were assigned to water rights, permits, user fees, and demand management pricing.

If we break it up by stakeholder group, we find that there is some interesting similarities and there's also some interesting differences among the different stakeholders. Agriculture, for example, is generally a reflection of the statewide P-FA, but that's largely because agricultural was the dominant group responding to the questionnaire.

As a group, agriculture prefers a mix of public education, conservation, surface water usage and tax incentives. There was moderate support for regional water districts and weak support for interbasin transfers. They were averse in general to water

rights, user fees, permits, and demand management pricing. Demand management pricing is an incentive structure applied by a municipality or a water utility to get people to conserve on water usage.

Public supply prefers public education and conservation by agriculture and industry. There is moderate support among the public supply sector for regional water districts, permits, user fees, demand management pricing, and landscape irrigation ordinances. So here you can see some differences between public supply and agriculture. As all, the public supply group is averse to interbasin transfers, water rights and new and/or alternative sources of water.

Industries highest scores were given to tax incentives. In fact, industries high scores for tax incentives were much higher than the scores assigned by any of the other groups. Also public education, conservation by agriculture, the use of surface water. There was moderate support for recycling by industry, the reuse of treated waste water and multipurpose reservoirs, and the lowest scores were given to regional water districts, interbasin transfers, water rights, permits, user fees, and demand management pricing. So where you see, industry does have some similarities here with agriculture in terms of how they regard some of these strategies, but they do stand out apart from public supply because public supply tends to favor things that industry and the agriculture group ranked rather low.

And in the others category, for the others category, the high scores were given to public education, conservation by agriculture and industry, surface water, tax incentives, and drought planning. There was moderate support for permits, user fees, regional water districts, and demand management pricing. Lower scores were given to interbasin transfers and water rights. So across the board you see that there's not much interest in water rights, and fees, and demand management pricing, except within the public supply sector.

The conclusions you can draw from this are that, one, there are many points of similarity among the different stakeholders, but there are also few salient differences as well. In general, the stakeholders appear to be averse to major change. And if you read this the way I read it, there tends to be a dislike for what they regard as strategies that imply regulation. There's a tendency, however, to equate management with regulation, and I think it's important to emphasize that management is not synonymous with regulation, and so public education needs to play a big role here in explaining the difference between the two.

In general, all of the respondents seek to minimize the cost to stakeholders, and from that we can also include that public education is needed to address several of these issues. So a public education program, which is, again, favored by all the groups here, can be used to clarify some of the issues

here, and perhaps provide more information that will allow people to make different assessments of the desirability and the feasibility of some of these strategies.

Some of the recommendations that follow from the P-FA analysis are that the analysts should consider that some of the low-scoring strategies might be -- actually be effective management options. Because an option receives a low preference score and a low feasibility score does not mean that one should turn its back on that. It may require a closer look at information that is not currently available that might help people look at this differently.

The P-FA should be conducted again after the passage of new legislation, specifically to see whether or not discussions along the way have provided enough information for people to give a different range of responses. And we should also in doing this target a better response from public supply in industry. We were disappointed in the response that we got from public supply and from industry. We thought that it should have been larger. And so for that reason we think that when this is administered again that these two groups in particular should be targeted for a higher response rate.

It's interesting to note that when we've done this before in Texas, agriculture always responds. They're interested. It's a matter of getting people from public supply and the other groups to take it seriously enough to fill out the questionnaire and

send it back. I spent a lot of time on the phone trying to get people to respond, and I know that they're busy, they had things to do, and many, I think, just didn't regard it as something that was important enough to spend the time on. And then we should target specific areas to be addressed by a public education program. These are all discussed in the text.

Water conservation is another topic that we're addressing here. Along the way we reviewed water conservation programs from other states, more than this, but specifically, we give summaries from the states of Florida, Alabama, Georgia, Mississippi, and Texas. I say programs here, these are the approaches that these states take to water conservation, both groundwater and surface water. What you'll find is that on the state level, most of these states have programs that are more or less general guidelines for what they would like to accomplish in the field of water conservation. The real water conservation programs are developed not so much at the state level but at the local level or at the county level, or in the case of Louisiana, the parish county level.

So in order to show how you go from a generalized state management approach to a more specific approach, we have also added information on the conservation programs of Tampa, Florida and Houston, Texas. They were many more we could have added, but we thought that these were sufficient to get across some of the approaches that cities, specifically in the coastal

regions, use to encourage conservation.

We also considered water planning and recommendations developed by the American Water Works Association, the U.S. Environmental Protection Agency, and the U.S. Army Corps of Engineers. In the text here, we recommend that the state set overall conservation objectives, and assign one or more agencies the task of working with representatives of cities and parishes to develop effective conservation programs to meet their respective needs. There are a number of agencies here in Louisiana that can participate in that, the Louisiana Cooperative Extension Service is just one. They have the resources to do that. But it's important, we think, to have people at the state level who have the resources and the understanding of some of these issues to be able to work with people at the local level and the parish level to be able to help them frame a conservation plan that makes sense for them. You can't have a one-size-fits-all conservation plan for all cities or all parishes in Louisiana. The issues are different. And so for that reason it's important to take a close look at what the concerns, what the issues are in East Baton Rouge Parish or in Lafayette Parish or in Lincoln Parish in order to help frame a meaningful conservation program for them.

Then we present a ten-step outline of procedures to follow and matters to be considered in the development of a conservation plan. So there is an outline to follow here when considering the

development of a plan.

Public education, we reviewed the public education programs developed by other states and cities. We've also, in light of this, considered the results of the preference feasibility analysis, and we've recommended areas to be targeted by public education programs to promote conservation and the use of alternative sources of water. We recommend here that the Louisiana Cooperative Extension Service play an ongoing and central role in the development and management of public education programs in Louisiana.

Incentives, this is a big issue, because incentives can be used to induce change or to encourage change or more efficient use of resources. We looked for incentive programs around the country, specifically those designed to encourage conservation and the use of alternative sources of water. We wanted to look at those programs, particularly the targeted users of large volumes of water. Out of all the states we looked at, we really only found one that had anything so far, and that's the state of Arkansas which has a program that uses tax incentives to encourage agricultural and industrial interest to conserve and/or to convert to surface water. Along the way I had discussions with representatives of industry and agriculture and government to get their input on some of these matters. We also considered a range of other options, such as user fees and disincentive fees, so we met with farmers and others to get their input regarding incentives, and

noted, of course, that tax incentives have received widespread support. In framing this here, we're trying to look very closely here at the types of incentives that would make the most sense for Louisiana.

Looking at the Arkansas tax incentive program, we discovered that while it works for Arkansas, we have the documentation of the number of farmers and industries, representatives of industry who have moved over from groundwater to surface water or who have instituted conservation methods based upon this incentive program, we can't take that program and apply it to Louisiana without looking specifically at Louisiana tax law. The tax program in Arkansas, according to the farmers that I talked with, if applied to Louisiana under those terms would not allow them to recoup the cost of their investment in these conservation programs. So whatever you develop in Louisiana has got to be designed to allow those people, the industries, the farmers who spend money to develop these conservation measures to recoup their investment in a reasonable period of time.

Drought planning or emergency use planning, again, we reviewed drought plans from a good many states, notably here Florida, Alabama, Texas, Oklahoma, and Pennsylvania. We also considered recommendations regarding drought planning or the structure of drought plans from the U.S. Army Corps of Engineers and the American Water Works Association, both organizations which have written extensively on

this topic. Then from that we drafted an approach to drought planning based largely on the structured approach by the state of Oklahoma. As I told you, we were impressed by that.

So taking Oklahoma as a model, we propose to set up a drought coordinator to be shared by the director of the Office of Emergency Preparedness in Louisiana, who will then reside as the director of the Louisiana Drought Management Team, which will consist of three committees: the water availability and overlook community, the impact assessment and response committee, and the interagency coordinating council. The tasks or the responsibilities of each one of these are clearly laid out in the text. Be advised that each one plays a very different role here in this proposed drought management plan.

We looked at factors to consider in identifying drought conditions. We identified different types of drought. There's no such thing as just drought. There is meteorological drought, agricultural drought, hydrological drought, and socioeconomic drought. Each one of these has a different range of impacts, and each one kicks in at a different point during the drought cycle. So that when you're talking about drought planning, drought response planning, you need to look at the type of drought that you're dealing with right here. In most cases we think of meteorological drought, but in fact, we're concerned about the impact of agricultural drought or hydrological drought, for example.

We also recommended a number of drought response indices and indicators. And I looked at a great many of these and came up with the following list, which are showing up here on the screen. I'm not going to go through all of these. These are all used to one degree or another by different states across the United States as indicators of drought. These are indicators that can be -- many of these are used already in Louisiana, some are not, but we're recommending that the drought management team consider all of these as a basis for trying to establish whether or not we have sufficient reason to declare a drought emergency or drought conditions in Louisiana.

We recommended the different members of the drought management team. By that I mean from the different state agencies that will supply committee members to the drought management team. We've discussed the responsibilities of the committees. We've recommended a phased-in approach to drought management based upon the occurrence of the following conditions, climatic conditions, which will define drought. But what we have here is a setup that will allow us to trace drought and then to phase it back out. So the tables that accompany this don't just end at emergency. It also shows how you go back from emergency conditions into normal conditions along the way.

And with that I'm going to turn this over to Raymond Reaux, who is going to talk about some of the other issues related to the agency that we're

recommending.

MR. REAUX:

Thank you, Bruce. What I'm going to talk about today is a continuation of Chapter 11, in particular chapter 11.8.3, for those of you who downloaded and looked through it. What you see is the final numbers, but let me tell you a little bit about how we got there. What we did internally is review the current staff of DNR and looked at the roles that they were playing, and integrated that into -- actually that would be the existing DNR personnel, the $127,982. That is representative of three individuals to add to that number.

The existing DOTD personnel, and for those of you who remember the organizational chart that we drew up, this is primarily the water well program, and this includes in that particular number, the 400,000 number is including approximately -- well, exactly 13 people, nine of which are field water well inspectors that day-to-day activities are to determine the quality of the drilling well and making sure it was done as planned also sealing of wells. So a bulk of those 13 employees are field individuals actually residing currently in the regions.

There are three permit individuals that perform a variety of activities within the region -- within the state, excuse me, but primarily enter environmental well data, public supply well data, and rig well data. As well as we -- currently the DOT utilizes districts and the districts have engineers, and each district

engineer is responsible for overview of any wells that may or may not have been sealed -- drilled correctly, sealed correctly, and any problems that they may have. So we will need one of those individuals. So the sum total of the non-inspectors, the three permit agents and the one engineer, is 13 individuals, which add up to the number of 404,000 there.

The office, the top number, the proposed Office of Water Resources staff, the two numbers -- the range of numbers is simply because we have a variety of classifications available to you. For example, when you have a regional staff member, that is a possible engineer or a possible geologist, which both have different midpoint salaries, so there's a bit of a range there.

COMMISSIONER NAMWAMBA:

Excuse me. I'm Fulbert Namwamba. Yes, I'm wondering, this seems to me the agencies that deal with water quantity and engineering. Are you considering the role of DEQ in water quality, or does this plan consider who will be looking at water quality?

MR. DARLING:

Fulbert, the water quality issues that you're talking about still fall under the purview of DEQ. This is primarily water availability.

COMMISSIONER GAUTREAUX:

Fulbert, I wanted to add, too, at the last meeting we discussed, pending the proposed structure, perhaps the need to drop interagency agreements to

more specifically address how the groups are going to cooperate in the future.

MR. REAUX:

Okay. Well, the 13 employees are what generated the $404,015 number. On the proposed Office of Water Resources staff, there is an organizational chart that has both been provided to you previously and also on the web if you'd like to look for it. But it includes 22 individuals. Now, the 22 individuals, obviously were going to -- the first line of proposed water resources staff is 22 persons. The DOTD is 13, the existing DNR is 3, which if you do the math results in six new employees. But the 22 employees as detailed would be: a new commissioner for the Office of Water Resources Commissioner, a director, a regional representative on staff for each of the three regions as we've described them previously in the report. There would be two new permit agents to deal with the general permitting that I think Brent is going to talk a little bit about, and one supervisor for that role. Then, of course, we would have the 13 that already existed from the DOTD, which gets you to the 22 number.

What I think is important to you in this exercise that we performed is the bottom line, which is the initial funding, and what we looked at is if you had a new department and you looked at funding that is currently available in DOTD and funding that is currently available in DNR and did some math, you'd get a midpoint number, but I think we can approximate

the initial additional funding of the six new employees, without doing the range you could approximate it to be $300,000, and that is what we're assessing and asserting in the chapter. And that is going to conclude my comments.

MR. SONNIER:

As part of the final presentation, and this is included in appendices 12, we have put together some proposed model legislation and rules. Of course, the Legislature, in trying to enact or to use the advice that we're giving through this report, is going to have to put together legislation to be enacted to put in a comprehensive state water management program, and then there is going to have to be rules, generally, to administer the program and conduct any type of administrative hearings and proceedings under the regulation -- or the statutes. And that's what I'm going to talk about. It mainly encompasses the critical groundwater definitions that have been revised in chapter 6; the legal issues and interjurisdictional issues that we have talked about in chapter 10; and then some of the issues in chapter 11 and chapter 12 dealing with emergency planning.

Some of the major proposals that are in the legislation, as we proposed, are, of course, the regulatory structure, as Raymond just discussed. It's going to be a combination of a centralized regulatory structure, plus in the three regions of the state, as we propose it, five regional districts to cover each of the major aquifers systems as they've been defined

and we feel needs to be addressed on an individual basis, and I'll talk a bit more about that in a second.

We're proposing a three-tiered administrative permit process with a primary goal of data collection, to know simply what is out there, what is being drilled, what is the capacity of the wells. We already are requiring registration of wells. This would be simply just an acknowledgment of registration, to a great degree, and with a real intent to not impose any unrealistic time constraints on the ability to register the well, have a permit issued, and go ahead and drill the well.

Part of the hearing process will incorporate something that is used now in oil and gas conservation, it would be a pre-application conference with correlative rights determinations, and I'll expand on that a little bit in a second. Hearings will be primarily reserved for critical groundwater area determinations, potential critical area determinations, determination of stress areas, emergency areas, and other contested matters that may arise. We're proposing that correlative rights act as a primary basis when you have these types of contested decisions that need to have a determination made, that really everyone is to be treated fairly is the basis behind this. If you do not have what we term a competitive situation, there's nothing to contest, the Rule of Capture will continue to prevail as it has in the State of Louisiana under the Civil Code and the

jurisprudential principles that has been established under the Civil Code.

Now, as far as putting together the model legislation, what we relied on is Act 446, some of the major principles that are in the Act 446, and taking the oil and gas conservation statutes that have been set out for oil and gas conservation that directly apply or that can be tailored to apply where you want to administer water management in the state. Under the current groundwater regulation in DNR and the Louisiana Office of Conservation, there is already the jurisdiction, if you read the statutes in Title 38, that the jurisdiction includes a conservation management and development of water minerals and other natural resources. So the jurisdiction already lies in the Department of Natural Resources to do these things.

Groundwater regulation, oil and gas concepts, there are of course similarities and differences. The management of water is quite similar to the law of oil and gas under both the Rule of Capture and correlative rights under Louisiana Revised Statutes 31:9 in the Mineral Code. Subterranean waters are designated in the Mineral Code as a mineral, and we are drawing distinctions as needed for correlative water rights and I'd like to expand on this a bit.

Currently under Act 446, the way a party protects his interest --

COMMISSIONER NAMWAMBA:

Excuse me. Could you go back to the previous

slide?

MR. SONNIER:

Excuse me?

COMMISSIONER NAMWAMBA:

Yeah. I raised this issue before that the definition of water as a mineral, you would refer to a mineral in terms of dealing with something that's going to be depleted. How do you see the future considering that water is a renewable resources if managed correctly? Once a mineral, you get it out and it gets finished. I just would like you to contextualize, maybe not right now, but in terms of in the long run I think defining subterranean water as a mineral places it in a context that's not very accurate.

MR. SONNIER:

What I'm going to do is explain how this criteria works, and I think I'm going to address your question as I go through this explanation.

Realize that when -- there's one case out there that we've discussed in the past, which is Adams vs. Grigsby. What Adams vs. Grigsby set out is that the Rule of Capture prevails if a party complains that his well use is interrupted by a larger use that takes water away from him. The courts essentially said that unless the party that is interrupting your use is wasting the resource, is causing you intentional damage, as opposed to making beneficial use of that water, you have no legal standing. What Act 446 has done, it has given the Commission jurisdiction to come

-- to consider someone's -- the adverse impact to their well only if it is in the public interest to do so. So what in effect is going on is unless you can show that it is in the public interest, that is, to protect the welfare, the safety, the health, or environment as a public matter, as opposed to just you complaining individually I'm not able to get the water I need because someone is making an excessive use over here, though it may be a beneficial use it's interrupting my right to try to get the water, you don't have an actionable legal challenge to that. You're simply being affected in your pocketbook and not as a matter of the public interest that is necessary to protect the aquifer itself or to safeguard the public interest. That is what 446 does right now. So technically this Commission has no jurisdiction to consider something that is of individual impact, yet not in the public interest to have to act to protect the individual.

Correlative rights. Now you've got to realize Adams vs. Grigsby was decided before the inception of the Mineral Code. The Mineral Code incorporates water as a mineral and that we are going to exercise correlative rights under the Mineral Code. It's there. As an attorney I could go in and make the argument today before a judge. Correlative rights are here. This party over here has a right to his share of that water, regardless of what is on the books as 446 or regardless of what Adams vs. Grigsby said back before the Mineral Code was enacted. He has the right

to a correlative right to make use of a portion of that water, an opportunity to produce a just and equitable share and not be interrupted in that use. I can make that argument today.

So what we are talking about is having correlative rights introduced into this mix of what we have under Act 446 which will expand the current jurisdiction of the Commission.

Now I want to be clear. I've heard things say we don't want unitization used in the context of water rights like it's used in oil and gas. Unitization will not be used here. What a unit is, as a matter of a definition under oil and gas conservation is, it's the area in an oil and gas reservoir that can be efficiently and effectively drained and economically drained by one well. A single well can drain the area. That area may take in several tracts of land that are owned by different parties. What you do not want to happen is every party that owns a tract of land feels like they have to go out and drill a well to get their share of oil and gas that's there.

So what we do is we form a unit, we put one well in, and the percentage of money that you get from the production is based on how much surface acreage you have in that unit. If you have 25 percent of the land area in that unit, you get 25 percent of the money from the production of the well.

We don't have to do that in Louisiana to regulate water. We're not going to form units were a single well services a bunch of people. It's not

unitization. The concept of correlative rights that we're dealing with is, if I have a well producing from one tract of land, property boundary, and then a well producing in another tract of land, what correlative rights does, it says that you have to have so much distance off that line to drill your well. In Louisiana for an oil and gas well it's a minimum of 330' you've got to be off the line. You're also going to be subject to production allowables. You're not going to be able to over produce and drain the other person's oil and gas.

Now you've got to realize, and I think this is what Fulbert just brought up, we have in oil and gas a onetime depletable resource that once it's gone, it's exhausted. It is also being sold on the open market as a commodity. The people on each side of that property line want to get their share because it's gone once it's gone. If you did not drill a well, and here's an issue on correlative rights, if a well goes in on tract A and no one drills a well on tract B, that well on tract A owes nothing to tract B. If tract B eventually drills a well three years later, the well on tract A does not owe Tract B anything for depletion. The correlative rights are established once tract B drills its well and then you try to balance the production. That's what we're talking about with correlative rights here.

But there's a difference. We have a replenishable resource. You're taking water out, water is recharging in the aquifer. So we're not that

concerned if we have correlative rights operating about if water is coming across a property line. What we're dealing with under our case law, if you look back, that dealt with surface water rights, it's another case called Walton vs. Jackson. The person complained about his riparian right at the surface. And I'll refresh your memory, a riparian right is if I have property adjacent to a running water body, I have a superior right to the guy that has property that is not adjacent. That's what the party complained about in Walton vs. Jackson. The court told the complaining party, all you're complaining about is someone's using the water and you're not. You're saying at some point in time you may want to use it, but you're not using it now, so we will not recognize that you have a legal right to challenge this use.

That's applicable in this situation because if I'm not making use of any of the water, and let's take two tracts, tract A, tract A has a well and it's making a lot of water. Tract B does not have a well. Tract A is free under the rule of capture to move all of the water it wants. Tract B cannot complain. Here's a difference, tract A has a well, tract B has a small well. Tract A may be moving water from under B, but if it's not affecting that well use, this requires actual use of the water, tract B does not have a complaint. They're getting the water they need.

If you have two tracts that are relatively the same size making the same amount of water, you don't have an issue. That's correlative rights. You're

getting your just and equitable share of water. It is only in the situation where if you have a tract A making a whole lot of water and tract B is not allowed to make the amount of water it needs for the beneficial use because of the amount of water coming here, that's when we have a competitive situation.

Act 446 does not do anything for that. As far as just an individual's right to make water, if it doesn't involve potential damage to the aquifer or something in the public interest that is actually affecting the environment or public welfare in general, health and safety. Correlative rights would give the individual whose water is being taken at least an issue to bring before the Commission and say, that's my right. It's the difference between the guy goes, you know, it's going to take me drilling another well across my property to get my water back. Right now you say, that's just a financial burden on you, it's not burdening anything in the public interest. You have to drill you a new well. Correlative rights says, we're going to take a look at it and try to balance the use and ask the big user, can you curtail -- is there conservation measures you can make and maybe have to go to pumpage allowables to balance it out.

That is what we talk about with correlative rights. It's a financial issue to protect the individual versus we're going to stick with the Rule of Capture unless you hurt the public interest. That is the crux of this whole matter. Do you protect the

individual using correlative rights, expand the jurisdiction of the Commission to that degree to consider these issues. That's what I wanted to make clear. We're not talking about unitization. We're talking about balance.

If you look at Act 446, those things are in there; pumpage allowables, pumpage limitations, spacing allowables, density on wells. But it all has to be done if you have a situation that can be adjudged critical, and not just as a general matter to protect the rights of each individual to get water. And that's what we're proposing that we take a step toward, trying to protect the individual to allow equitable use of the resource that is there.

Now, the terms, as I just said, the jurisdiction is expanded, and just to reiterate, you have a limited application, a physical regulation, water use in critical groundwater areas. We would go to allows regulation to insure protection of correlative rights where competitive use of the resource is occurring and such rights arguably could be prejudiced where proposed new use is in excess of historic use. The historic use would be what you're making of your water as I described over on tract B. As long as you've got enough to make historic use for your beneficial use, that is what would be looked at.

Here are the three groundwater regions, as Raymond explained. We would establish -- we would keep these three water regions as mainly the areas that the effort would be concentrated in, that

centralized area, but with emphasis on the three big aquifer systems; the Chicot in the southwest, the Sparta in the north, and the Southern Hills up in the upper area of Region 3. That would be the emphasis. You want a centralized command, of course, because of the intra-jurisdictional issues. You want to have a centralized cohesive unit that can deal with Arkansas to establish compacts and that can also work with other agencies, such as the Department of Environment Quality for water quality to have interaction there. But you want these regions to have the input from a lot of things that are already out there. You have the Capital Area Groundwater Commission, the Sparta Area Groundwater Districts that are already established that are operative. We also have smaller entities, conservation districts, irrigation districts, recreational districts. All of those parties have to have input, and that's why we're recommending that these districts be established, and the districts would be established, there's the three aquifer systems; Sparta, Chicot, Southern Hills. It has been recommended to us strongly that the Mississippi River Alluvial Aquifer have its own commission because of the strong agricultural nature, as opposed to the Sparta that is more divided along industrial and municipal use.

The Southern Hills Aquifer, we have divided that region as well because surface water use below the extent of the Southern Hills in the Greater New Orleans area is the prime key. That would be

subdivided. The Chicot would be one district, as would the Sparta area, and that would give the input of local entities. These local entities, these districts would have input into things that are proposed within those districts, hearings that are held in those districts, that would give the local input at all times because the districts could have their representatives participate in the decisions that are made.

We are retaining some terms from Act 446. Sustainability. This definition is principally what the Technical Committee relied on in the Task Force to develop our new definitions of what a critical groundwater area is. Sustainability - the development and use of groundwater in a manner that can be maintained for the present and future time without causing unacceptable environmental, economic, social, or health consequences. Those things are what is known as the public welfare, the public interest. By the Article 9, Section 1 of the Constitution, agencies are to consider these factors, and that's what sustainability does is ensure that aquifers are maintained so that the agency obligations are met to the public interest.

Critical groundwater area and potential critical groundwater area use that definition, and as Bruce set out, it's an area in which -- in a critical groundwater area, an area in which under current usage in normal environmental conditions. We're not looking at emergency conditions. It's under just generally

prevailing conditions that we consider normal in Louisiana. Sustainability of an aquifer is not being maintained due to movement of a saltwater front. That's a big problem in Louisiana. That's what one of the factors the Technical Committee identified. Or water level decline, the other significant factor that can cause substantial impacts to an aquifer; resulting in unacceptable environmental, economic, social, or health impacts, there's the public interest, but also causing serious or causing serious adverse impact to the aquifer.

The agency also has the obligation to protect the physical integrity of the aquifer from things such as subsidence that can be caused by significant water level decline. That arises out of the Constitutional obligation of the Public Trust Doctrine, Article 9, Section 1 of the Constitution. You would use these things to define the area, not just the aerial extent but over time what is going on with that aquifer that it may not be happening in part of the aquifer, but that's still going to be included in the area you define because we're looking at it not only from the aerial extent but what's going to happen over time if things stay the same.

The difference that we've drawn here, though, if someone comes in and says I want a critical groundwater area designation, we look now at the conditions that exist. It's looking at the severity of it. Do these conditions exist now, as opposed to a potential critical groundwater area. The conditions

aren't quite there yet, but with projected usage rather than current usage we may go there. So it's looking at farther in time but there's still considerations to head this thing off. It operates on a spectrum. Critical groundwater area being you're there; potential critical groundwater area, you're not quite there but you need to do something about it that may require coercive regulation of the water use that is being made in the area.

Now, the things you will consider that the Technical Committee stated, these are the things that we think are primary factors. They should be required. Every time a finding is made or a determination is made for a critical groundwater area, these things should be considered as a requirement that the Commission go through. Saltwater movement, has saltwater movement occurred resulting in unacceptable water quality? Unacceptable dewatering relative to the saturated volume of the aquifer, the optimal sustainability of the aquifer; aquifer compaction because you've depleted it and you're getting subsidence that is causing the aquifer not to be able to store water effectively as it once could or the movement of water is inhibited because of that compaction. Declining water levels below the top of the aquifer when you have a confined aquifer because that's a signal that you're moving into a non-sustainable situation.

Other things that can be as discretionary factors considered by the Commission, number of users in the

area; time interval over which unacceptable conditions are projected to persist; economic effect on the area experiencing such conditions; how big an area is it occurring over; and any other factor that the circumstances may warrant that the Commission consider based on the facts.

Moving down the spectrum, we propose that there be not a black and white issue here, you're not critical or you're not, there can areas of groundwater stress areas as we define them, an area in which aquifer sustainability is being less than optimally maintained under current usage in normal environmental conditions, but you only use noncoercive measures. That's an area of emphasis for conservation measures for the public education, or maybe enhance monitoring. You want to head things off because Act 446 and what we are retaining is it's built around sustainability.

In a presentation we gave Monday, a gentleman from Texas gave a presentation and said, it is left up to the districts if they want to mine their aquifers, put them in a substantial depletion, it's up to the districts. Louisiana's legislature enacting 446 said sustainability is going to be the paradigm for what we do here, and that's what we're trying to maintain. So that's down the spectrum, noncoercive measures to do that. We're drawing a difference between a groundwater emergency area.

We presented a revised definition, an area in which an unanticipated occurrence is the result of a natural force or a manmade act results in abnormal

environmental conditions causing a groundwater source to become immediately unavailable for beneficial use for the foreseeable future. You want that specifically defined because in the legislation we propose, the Office of Conservation currently has authority under their oil and gas statutes and we want the same authority for the Ground Water Commission, to be able to act immediately, not to have to go through a notice period. They have an emergency authority to immediately address the problem in the public interest subject to after the fact presenting in a public hearing what they had to do and to have that authority. That's why we are drawing a pretty bright line that you have an emergency condition that needs to be addressed.

We're proposing a three-tiered administrative permit process system. Now, there's three tiers here. Permit by exemption. All the wells that are currently exempt under the rules that were originally enacted, domestic wells, replacement wells, rig supply wells, that just have a very limited ability to impact an aquifer, they're still exempt. Under what's proposed under the rules, within three days you make notice that you're going to drill such a well, within 24 hours you can get a verbal approval to go ahead with just a minimal review by the Commission staff, drill your well. And unless the well simply is not within the category of exempt wells, that well is designed to automatically be allowed without any other problem. You'll get an acknowledgment that you're, quote,

permitted, simply going to be a piece of paper saying you filed the registration, here's your permit.

A general permit well using the same standard that is in several of the water statutes we have on the books, including the Capital Area Groundwater Commission for certain exceptions, you get an administrative grant within ten days for wells that are less -- or at or less than 50,000 gallons a day capacity, unless someone contests that this well, and the only contest you can raise, it's in a critical groundwater area, it's going in, we need to address this. What I am recommending, it's not in the rules right now, there's an expedited hearing process under the current Office of Conservation rules for oil and gas, it is a 20-day expedited hearing process. These wells should proceed on a 20-day expedited hearing process, such that you are required under how we've set it up to file a notice within 30 days that you're going to drill such a well, and a protest has to be logged within seven days of you advertising the well one time in the paper. If a contest is raised, it goes on an expedited proceeding, but the whole thing should not take more than 30 days to resolve to get that well drilled. Most of these wells should go through, no problems.

Individual permit wells are your big use wells, but they're still subject to administrative grant. If no one contests the well, then it will probably be administratively approved unless we have a critical groundwater area that's in play or something that

needs to be looked at. The Commission has the authority to call its own hearing if it wants to contest it, but if the thing as proposed poses no substantial problems in the area it's going in at and no one contests it, it will be given an administrative approval.

If it is contested, then it's going to go through the hearing process, but one of the criteria for the hearing process that's used under the current oil and gas rules, it goes into a prehearing application notice setting with a prehearing -- pre-application conference held and a correlative rights determination, and I'll talk about that.

COMMISSIONER GAUTREAUX:

Brent, let me stop you just a second because I know a lot of the water well drillers are very concerned about the domestic well. What the group is proposing here, the person would notify, they wouldn't necessarily be waiting for an exempted class of wells, which as I understand domestic wells are, they wouldn't be sitting around waiting for 24 hours. So can you --

MR. SONNIER:

No.

COMMISSIONER GAUTREAUX:

Okay.

MR. SONNIER:

I mean, once the application is made, I mean, I presume that a water well at least has some lead time that you notify the driller, I need a water well. An

application can be made -- could be made as simply as a call to the Commission, I want to put a water well in here, describe what you're doing, the approval. After the fact just submit the well is over here, just a basic registration. It is not designed to inhibit the ability to drill a domestic well.

COMMISSIONER GAUTREAUX:

So as a practical matter, there should not be much difference between a registration and a permit at that level?

MR. SONNIER:

Not at all. That is what we're talking about here, is using the same registration process that is used currently. It's just turning around and handing someone under a general permit, look, here are the rules. I mean, there are regulations on the book for water wells. Here are just the rules. Here's your permit. This is what you're obligated to do and that's it. We don't -- there was an issue that came up, I think last time we talked about this, about metering. You don't have to meter general permit wells because the wells by definition are 50,000 gallons or less per day. One of the requirements is tell us how much the capacity of the well is.

Since those wells are of relatively low volume, if you go to make assessments about use in a particular area for purposes of modeling, purposes of planning, you can make certain assumptions about those wells. You don't have to have them metered because they're simply not drawing on the aquifer to the

degree that you have to pinpoint. You just need to know the number and basically an average number what those wells are probably making. There's no need for metering those types of wells.

COMMISSIONER GAUTREAUX:

Thank you.

COMMISSIONER DURRETT:

Karen, can I ask, does this permitting process include all wells no matter what the capacity?

MR. SONNIER:

It would include a filing to register the well.

COMMISSIONER DURRETT:

Register not permitting?

MR. SONNIER:

Most wells are registered today. It is nothing more than the registration process with knowing what the wells are and providing a permit. But the permit is not going to be something that is inhibitive. What we're saying is, we want the information here, we want to assure that it's registered, and we'll hand you back a simple on a general permit well. It's where we get into the large use wells that if you have concerns about pumpage allowables that need to be applied here in a critical groundwater area, there is a structure here that allows, not just general requirements, but you may have to put specific requirements on big use wells, those permit will probably be more detailed, but if a big use well goes in and there's no need to put any further requirements on that big use well, it can operate under the general permits.

COMMISSIONER DURRETT:

But you're saying two things. To me you're saying two things. You're saying permitting and registration. Does it have to be permitted, all wells have to be permitted?

COMMISSIONER GAUTREAUX:

As I understand the explanation, yes. It's just the level of activity for a certain class. The first class that are currently exempted would be the same level of activity, but it would be a permit at that level.

COMMISSIONER DURRETT:

Okay, now they're registered.

MR. SONNIER:

This would be simple. The fallacy in all of --

COMMISSIONER DURRETT:

I understand that and you understand that, but the public --

MR. SONNIER:

-- this is that we're just trying to acknowledge the types of wells that are going in. The permit is simply a piece of paper you're handed back on an exempt well saying you're exempted. There's nothing else.

COMMISSIONER DURRETT:

In a critical area, are all wells permitted?

MR. SONNIER:

In a critical area the exempted wells would not be. The wells that are general permit wells would be looked at to see if they're in a critical area by

staff, even if they're not protested. The staff would take a look at it and say, is there a problem here? Will we have to call a hearing and perhaps set a pumpage allowable, because you may have pumpage allowables that have already been applied to wells in a critical area. Someone files to drill a well in an area that's already designated critical, you'll look at the general permit well to see if there's something that has to be put on the well, without a hearing -- without a hearing. Say, you know, this pumpage allowable applies to you.

So it's a way to administer to these things without going into hearing for everything. It's only your big use wells that are likely to go to hearing unless the general well, a general permit well is proposed for a critical groundwater area that's already established, or someone contests it on that basis, because that's really the only basis, as we propose it, that you can contest a general permit well. It's not going to be, I just don't like the idea. No, you'd better have a critical groundwater area designation that you can prove that needs to be here or else that general permit well is going to go in.

It does not have the ability to impact the aquifer like a very large use well does. This is designed on a spectrum to be able to screen things and say, well, we have a critical area here, we may need to look at this. But unless there is contest along the way or there's a reason for these wells to be

looked at, they're going to pass through the administrative process and through the registration process. You turn around and hand back and say, you've got the right to drill the well. It's not designed to hold up anything except where you have critical areas because that's what we're trying to do is take a look and to be able to administer through a permitting process. We have criteria that's set up already. These people are subject to it. You need to know through this permit you're subject to this pumpage allowable because that's what everybody else is having to operate under.

The permit that's really going to come out on an individual well that has to go through the hearing process is actually an order of the Commission setting the requirements for that well to operate. That will be the operative permit is really the order of the Commission that has to go through the hearing process. So it's just a series of things that they do not interrupt the administrative cycle of this of turning back permits to drill. And I point out, you already have to under the current rules apply 60 days in advance to drill the well. That's what we're looking at. This is the same thing. You make your application, your notice of intent, 60 days for an individual permit well. We're willing to say 30 days for these general permit wells, cut that in half. It's already required. Sixty days you make your application -- by your notice of intent. That notice of intent for an individual permit well consists of

about two things. You advertise it in the newspaper in the parish where the well is going in, plus you file what's called the pre-application notice to what's called interested users. Those are the parties on adjacent properties that could be affected by what you do. If no one raises a contest, that well just proceeds right on through the administrative cycle, or if staff doesn't say there's a problem here, it proceeds through the administrative cycle. It should be allowed within the 60 days as we're doing it right now for the notice of intent.

I mean, it's not enlarging the time frame here. It's already required under the rules we have, because every time we go to have a hearing, Tony goes through how many number of these things we have received. And there still will be the ability if there's hardship that will be produced, for the Commission, or really the Commission and staff, which will be either in the office or the division, to waive the requirement through a telephone call, I can't wait, I need to drill the well if it meets certain criteria. If it's a large well, I don't know if it will be granted, but if it's routinely granted, such as a general permit well, that 30 days can be waived.

So we're not doing anything different than what is already required on a time scale here. We're simply going through a process where these things can be reviewed as a matter of getting the information for statewide planning and to be able to administer to critical groundwater areas when and if they're

designated.

COMMISSIONER DURRETT:

Regardless of the volume?

MR. SONNIER:

Not regardless of volume, under those three-tiered situations. But as I say, you're saying, well, you're requiring a permit for an exempt well. I'm doing nothing more than turning a piece of paper over to you that says you've qualified to be exempt. That's all it is. It's not a permit, it's just an acknowledgment you qualified for that. We know where the well is. We know we have exempt wells in these areas. It's just knowing what is all out there. You're registering the well, but our permit is nothing more than an acknowledgment. It does nothing more. It just acknowledges you're exempt. That's why we are exempting. It's really just a piece of paper.

It's the other criteria that we're moving into, general permit wells, if they're in critical areas, you want to be able to know that. Big use wells, we need to take a look where a big use well is going in. I mean, after all, this is what triggered this whole process was a concern that a very large use well was going in among fairly high use wells around it, what effect is that going to have. Are we looking at a potential critical groundwater area.

But as I say, if there's a review of that by Staff and there's no contest that comes up about that type of well going in, especially -- and this is the process I want to go through of how you screen these

wells before you ever get to a hearing. When the pre-application notice goes out for an individual permit well to interested users, those parties that could physically be affected by that well going in, it gives a date in that pre-application notice, this is what we use in oil and gas, and it sets it about 20 days away from when that notice goes out, and it says, if you want to have this hearing, we're going to have a hearing, and this goes to the interested users, on this date, on this time, at this place. Anybody that wants to have the hearing contact the applicant. Within ten days if no one contacts the applicant to contest the well, no one really minds the well going in, you don't have the conference. You immediately file to have your well approved, and it should -- unless Staff raises an issue, it should proceed through the administrative process to approval without -- just as we do now, you just register your well within 60 days. It's going to proceed. You should get approval back within that time period. You're clear to drill your well.

If someone asks for that conference, what that does is allows these parties to sit down and talk about what effect that well could have. The applicant can show, you know, we've made a determination. This is the area we're going to affect. We don't think it's going to affect you. It allows Staff to participate in that hearing. That's one thing that on the oil and gas side we don't do because you tend to have sophisticated oil and gas lessees who have

geological consultants that sit down and try to work this stuff out. Oil and gas, as a matter of geology, is, I would say, having been a petroleum geologist and I'm an environmental scientist and an attorney, it is easier to look at geology on the oil and gas side than it is hydrology. It's a lot easier to do, as just a matter of understanding it and being able to define where oil and gas is and where it's not, as opposed to what a water well is going to do in an area around it. You need staff to participate. You need to hear the issues. You need to be able to determine on a scientific basis what really is that well going to do in this area. If you can work out all your differences in that pre-application setting, everyone's contented that it's not going to have an affect, and Staff is satisfied that there's not going to be a correlative rights issue arise because there's not competitive use that's going to, no one is going to be impacted by the use that this applicant wants to make, you go ahead and file. Immediately after the proceeding, if no one has a contest, you file your application to have that well approved.

If someone wants to dispute it, there's a correlative rights determination. And what we're going to be asking, that's the factor that's already in 446, historic use, what are you doing right now on your property? How much --

COMMISSIONER WELSH:

The one difference with oil and gas is that the Staff does not participate in the prehearing

conference.

MR. SONNIER:

True. We would want staff in there because, as I say, you don't have the sophistication among water users, and we're not selling a commodity that's worth a lot of money like oil and gas companies can hire people to come in that really know. Staff needs to be there, but staff would make a recommendation if we go to hearing that is to be considered by the Commission only with the same level of evidentiary basis as anybody else. They would say we think this, but they are free to just take that for what it's worth and hear the applicant and hear any opposing view that's raised. That's why we say we should include staff at least to be able to moderate these things, and to be able to give an understanding and cohesiveness that's not inherently there because you don't have the sophistication you see typically in these oil and gas settings. We think that's probably something that should be considered to have.

The correlative rights determination would be to say, here's historic use. If someone says I'm not going to use any more water than anybody around me and I've got about the same amount of acreage, there's no correlative rights issue. Unless we're talking about critical area or potential critical area, you use the water. You tell the party that's opposing it, you're going to have a very high burden coming into this setting, in a hearing setting telling us why under the Civil Code that this person isn't entitled to use his

water and use the same amount that you're using. Absent a problem with in the public interest of a critical area, everybody gets to use their water.

If someone is going to use an excessive amount of water, as I described, it may be taking water out from under other people's property, without any problem, that's not a competitive use. If he's taking water that's going to affect somebody else's ability and he's taking what is adjudged to be an excessive amount of water even for a beneficial use, that's when we say, you know, you need to consider is there things you can do differently here, less water conservation measures, because the thing that drove us to this point today is that it is very cheap to use groundwater if you can be uninhibited in the use of groundwater.

If you have to treat surface water, or if you have to go deeper and treat water that may not be as good as the shallow groundwater above it, it gets into a cost factor that this individual may not want to be subject to. That was kind of what drove us here to this point. And it's up to the Legislature, it's up to the parties that fashioned these rules, what is going to be the force and effect if someone wants to go there. Do we say if you're not -- are we going to stay with 446? If you're not injuring the public interest, we're not going to do anything about it. Or are we going to say, you need to consider these measures as a matter of protecting correlative rights? That's a decision that has to be made here.

But I think if we do these things here, we will limit the amount of hearings we have, we will give people a chance to work it out, and we limit the things that go to hearing because you have to show a true competitive situation that somebody's going to be affected in their actual use of water, not that it's coming out from under them, but it's going to effect their ability to have a correlative right, which by definition is the opportunity to recover a just and equitable share of the available resource. That's correlative rights.

And I say the last thing is the burden of proof. The party that's going to go in and try to say, he can't use the same amount of water I can, is going to have a rough go at it at hearing. The party that wants to use a whole lot of water and disrupt the guy next to him may have the burden of proof to show why he ought to be allowed to do it. That's what we're proposing to try to resolve a lot of this before we go to hearing. If we go to hearings, what we think you'll be dealing with as a Commission, or whatever is established in the way of a regulatory agency to deal with these issues, critical groundwater areas, potential critical groundwater areas, stress areas, emergency areas, in the contested matters that do not get resolved through the pre-application process.

Once a hearing is held, we do not recommend the current situation where we've got to go around from parish to parish if we have a multi-parish situation for a critical area designation. The Commission

issues an order. They make a decision, they issue it by order. They use correlative rights as a primary basis trying to treat people fairly. A Rule of Capture is retained. If the noncompetitive situation is shown in the evidence, the Commission is not to do anything to disrupt effective use of the Rule of Capture if no competitive situation is involved. The party, if they feel that they have been unjustly treated under the order, they have a right of review and appeal. Under the current Conservation Code that goes to the District Court here in the 19th Judicial District. First the District Court considers it on the merits, de novo, was this done correctly, then it proceeds to the First Circuit Court of Appeal and on to the Supreme Court. So you do get your hearing in a court of law if you disagree with what the Commission did.

Really, that's what we're recommending. And if you'll look at the statutes that have been put out on the net at appendix 12, what we've done is taken Act 446, taken parts of this, taken the Conservation Code, we've taken other elements, such as to form the districts that we're talking about, really the Capital Area Groundwater Commission structure, and really just applied it. The districts will be formed. They will not have the full authority that the Capital Area has now because Capital Area has broader authority than this Commission does right now in five parishes. But that authority will be administered, will be set from the centralized agency, but the districts will have a

large part in how this is going to be administered, and a big say in working with all the local groups to implement these strategies. That's what the amendments we're proposing to the Capital Area Groundwater Statute do. And then there's some rules in there about how we recommend hearings proceed to try to resolve issues, and that again, the permitting process be an administrative channel only with detours to address issues such as critical areas or someone has a valid contest to put this before the Commission as a matter of hearing.

But it's all designed to proceed within that 60-day period that is currently set for making notice to the Commission to drill a well. That's what it's designed to do. And to exempt certain wells just like we do now, and to limit small capacity wells to what actually can be a challenge to and put it on an expedited process to grant those even in a contest.

COMMISSIONER GAUTREAUX:

I'm going to let the Commissioner's ask questions first and then Task Force. Jackie, you'll be the first Task Force member I call on. Bill?

COMMISSIONER CEFALU:

Question. Considering the fact that the reason we're here is because there was a large user wanting to tap into an area, and I don't know if it had been designated critical or not, I have a few things I'd like some clarity on. Number one, who is going to designate an area critical, and is the scientific data going to be accumulated by consultants or the state or

whomever to say something is critical, number one, because I don't know that the act that did happen to stop a large user from tapping into where a lot of local people are concerned about their water, if that area had even been designated critical or not. So we've got to know who is going to make that decision.

MR. SONNIER:

At the time that the well was proposed there was really no ability of any of this Commission because really 446 had not been enacted, only Rule of Capture was the operative term. And arguably, the only way you could have really stopped the drilling of that well is under the Constitutional authority to say, you're going to damage the aquifer. Someone could have stepped in, such as DNR or DEQ to say, that well can't be drilled. But otherwise, the party was free to drill it and use all the water they wanted under the Rule of Capture. Act 446 came in and said, we're going to look at critical groundwater areas. But there's two ways, really, that a critical groundwater area, both under 446 and what we're proposing it's designated. Either a party comes in with an application and says, I want the area declared critical, or the staff itself says, we think a hearing ought to be caused because by the data we have on hand there is a critical groundwater area in that area.

COMMISSIONER CEFALU:

So there is no specific definition or any scientific data that's going to be used to say, this is a critical area? And the point I'm trying to make,

for instance, we discussed the fact that a general purpose use of someone wanting to just drill a well for water for their home, say, for personal use, not for a facility that's going to generate revenue; you know, the big difference is I'm using it just for me to live on and you're using it to make money on. If -- from what your definition was earlier, as long as that aquifer has the available water resources to accommodate whatever is there, then there's no problem, the permit is issued and everybody just keeps taking water. So someone has to be watching the source to say, okay, wait everybody. We now are getting into a critical -- sooner or later you can deplete or get into a critical area.

So my point was, who is going to be overseeing and looking at that aquifer to make sure it doesn't fall into that category and say, we have to stop issuing these permits of unlimited use now, you see, because we're in a critical area; or if you take the other side of the coin where you do regulate an area and say, okay, you're allowed, say, 60,000 gallons, anything other 50,000 gallons, say it's 60,000, we have to limit you to 60,000, and another one comes in and we've got to limit you to 60,000. Pretty soon the 60,000's add up to where this is going to become a depleted well also. I just want to know, who is going to be balancing that pendulum to see, to make sure we don't deplete a well, while we're being fair to everybody in allowing them all to be restricted in what they're taking, the accumulation eventually is

going to make -- deplete the well.

MR. SONNIER:

One of the functions of the Commission, I say the Commission, whatever, if it's the Office of Water Resources or Division of Water Resources, is to collect data on a basis, just a continuing basis as to what is occurring in these aquifers, a basic testing of wells and all to see if water quality is diminishing, because that's an indication. If you start seeing a rise in saltwater, total dissolved solids, is that occurring in this area. And Bruce can expound a lot better than I can on the science of hydrology. You rely on scientific principles. You can calculate the draw on an aquifer, how thick that aquifer is, what is the rate of recharge.

At some point you may say, we've got too many wells. If another well comes in we may have to actually lower the pumpage allowable in the critical area to maintain sustainability.

COMMISSIONER CEFALU:

Okay, and would you lower that level of pumpage across the board to allow this person in because he has rights like everybody else has rights; right?

MR. SONNIER:

That's right. But there's a difference in the water rights regimes we talked about, like a right of prior appropriation. If you tell one individual, you get all the water you want but this guy has to go down. Correlative right regimes says everybody --

COMMISSIONER CEFALU:

Everybody goes down?

MR. SONNIER:

-- goes down proportionally except for what's built into 446, consumption and public safety, they have to take priority.

COMMISSIONER CEFALU:

Right, and I'm for that. Give me just another minute, I'm trying to get to a point. The next thing is is, if we assume that, whether it be DNR or whomever is overseeing all of our wells and our aquifers to make sure we don't get into a really emergency situation, and we do have everyone being satisfied in getting the permits they need for operation, whether it be personal or business, it comes to a point to where we want to be proactive in trying to get the larger users that may not be using it for consumption and are using it for manufacturing or whatever, to try and go to another source, so that it would take the relief off of that aquifer. I think we talked about some incentives, tax incentives and whatever. Do we have a proactive program in this implementation to try and get the large users off the aquifers?

MR. DARLING:

Well, we're looking at different incentive type programs that you can apply here, but any type of incentive program that we recommend is something that would have to be approved by the Legislature. We like the idea of tax incentives. We like the idea of other types of incentives. Frankly, I think the idea of

disincentive fees is not beyond discussion, but these are things that we can only lay out on the table right now and recommend for you take to the Legislature for the Legislature to decide on.

Yes, incentives should play a major role in this. The question is, what do you find acceptable as an incentive program, and what will the Legislature find acceptable as an incentive program?

COMMISSIONER CEFALU:

Thank you very much.

COMMISSIONER WELSH:

Any other questions from the Commission?

COMMISSIONER DURRETT:

I've got one. On the permitting process for the major users in a critical groundwater area, I didn't notice where, do they have to demonstrate what affect they would have on the aquifer before the Commission made a determination of whether to issue the permit or not? Is that in your recommendation, or is that --

MR. SONNIER:

I would foresee that if a major well goes into an area that's been designated critical, it is going to hearing. And because of the effect it could have, there needs to be evidence presented, because you are dealing then in the public interest because you have designated that area. When you designate an area critical, we're not simply saying we have some concerns. We are physically affecting either the integrity of the aquifer itself or the health, safety, environment, and it needs to go to public hearing so

everyone can have a say before the Commission and it be on the record that this well is going to go in and what was considered to allow it.

COMMISSIONER DURRETT:

But that's not a requirement of his application that he has to submit information showing what effect it would have on the aquifer over a period of time?

MR. SONNIER:

I think he would file the well as a major use well saying, here's the capacity of my well. I think staff would review it, and staff may come back with a recommendation to the Commission saying, we think it can go in without an effect, any further adverse impact to the aquifer as is. If there's no contest raised, I think the Commission with no more could say, we agree. But he would have to show that it simply just can't go in on a critical groundwater area, because after all, you've defined the area with the idea that there is going to be controls implemented because the controls are necessary to protect either the public interest or the physical integrity of the aquifer. You've already made the determination on that issue.

COMMISSIONER DURRETT:

Let's look at it another way. If you're in a area that's, say, on the margin of being critical or not, it's not necessarily critical yet, and you have a major user apply -- make application for a well, does he have to demonstrate what effect it would have on that aquifer over a period of time?

MR. SONNIER:

If someone raises a challenge based on --

COMMISSIONER DURRETT:

No, no. I'm saying in your recommendation, is that part of his application? I'm not saying if somebody raises a question.

MR. SONNIER:

The part of his application is that he has to tell you not how it's going to affect the aquifer, simply how much water he intends to use. If it's contested -- if it's contested, then he may have to present evidence to show this is what we think is going to be the hydrologic effect in the aquifer, as to the integrity of the aquifer and the other users. And other parties, interested users who could be affected as well, and even interested parties, such as municipalities that have an arguable dog in the fight may come forward and say, we want to present opposing testimony.

COMMISSIONER DURRETT:

Back to my volume of registration or permitting. If a well is not in a critical area, and a well is, say, 10,000 gallons per day, which is a minor user, they still, if somebody contests, they're going to have to go through a process of hearings?

MR. SONNIER:

My recommendation will be under the rules the Conservation Commission uses, or the Office of Conservation, it's an expedited hearing process if some body raises a challenge, but they're going to

have a significant burden of showing that a critical area exists right there.

COMMISSIONER DURRETT:

I understand.

MR. SONNIER:

It's going to be a significant burden.

COMMISSIONER DURRETT:

I said if it's not in a critical area.

MR. SONNIER:

Well, if a party raises the issue, though, let's say you don't have an area that's already determined, he says, I think it's critical now. It hasn't been determined, but I'm going to bring the application and say, I think it's critical. That's the only way he can challenge it, and he's going to have a tough row to hoe to stop the drilling of that well, and we foresee a process where it's a 20-day cycle. It is not a prolonged cycle where that guy is delayed. If the Commission reviews it and says, you do not have a leg to stand on for a critical groundwater area determination, it goes through.

COMMISSIONER DURRETT:

But if you've got a well that's just -- like you're saying, just you and your family, save it's 1,000 gallons per day, you've still got to go through the process?

MR. SONNIER:

That's a domestic well. It's exempt.

COMMISSIONER DURRETT:

It's exempt? So what is the definition of a

domestic well?

MR. SONNIER:

A domestic well, according to the definition, it's what the Department of Public Works uses and DOTD, it's a well that services, I believe, a family for its use, such as typical domestic use of a -- and it doesn't really have a threshold of use. It's just typical domestic use servicing members of a household for common domestic things, such as cooking, cleaning, and all that. It's a well that you use on your property for domestic or your own use.

COMMISSIONER DURRETT:

But 10,000 gallons a day wouldn't be a domestic well?

MR. SONNIER:

No. If it's a domestic well for 10,000 gallons of use a day, it goes through automatically. You can file it and you can call and say, do you have a problem? No, drill your well.

COMMISSIONER DURRETT:

I'm not sure how you define a domestic well then.

MR. SONNIER:

It's specifically defined in the Office of Public Works. I have the definition, I believe, in a paper that has been included in the -- I think it was Phase I, the specific definition of a domestic well is in there. Hang on and I will --

COMMISSIONER DURRETT:

That's all right, you can do that. I don't want to get tied up on that. Bruce, can I ask you another

question while he's looking for that?

MR. DARLING:

Yes.

COMMISSIONER DURRETT:

In your report, or in your recommendation, a critical groundwater designation area is defined as an area; is it not? It's not a well-by-well evaluation, it's an area; is that correct?

MR. DARLING:

Right now it's an area, not a well-by-well evaluation. Right now. Of course, the size of that area can vary.

COMMISSIONER DURRETT:

I agree.

COMMISSIONER WELSH:

And while he's looking up, any other questions? Mike?

COMMISSIONER TAYLOR:

Bruce, you're recommending a mix between a state agency of some sort more or less setting targets, and then working with a local agency to come up with methods. Did you hear any kind of preference on the user standpoint, not on the community, but on the water users? Did they voice any sort of preference between working with a state agency versus a local agency?

MR. DARLING:

What we hear is that people want to have input in their areas. They would like to have people who are knowledgeable about the water resources in say Region

1, have a major input into the establishment of policy for their area. Some people would like to have absolute autonomy given to local or regional groups. Others would like to have the authority to set overall policy directives and goals seated in an agency in Baton Rouge.

And from that we concluded that it is best, in order to make sure that we have uniformity or uniform application of statutes regarding groundwater in Louisiana, that we have the authority vested principally in an agency here in Baton Rouge as we've described here, an office in the Department of Natural Resources, working very carefully with, through its regional agents, the representative of the different regional districts. So what we're trying to find is a balance here between input from the regions and then the directives, and I say directives and I want to use that somewhat loosely here, but the oversight applied here from an agency in Baton Rouge regarding the management of groundwater resources.

COMMISSIONER TAYLOR:

Let me rephrase it a second, it's clear to me from the Sparta hearing that the local folks want to control the water in their area. That's not a dispute. But what I'm asking is, did you pick up any preference on the part of the applicants for these permits? Would they rather deal with a state agency or a local agency, and if so, why?

MR. DARLING:

No, I haven't. I can't answer that. I don't

know yet.

COMMISSIONER WELSH:

Did you have some more questions?

COMMISSIONER CEFALU:

I have one other question. We had talked earlier about adjacent states, and their policies and I think we're lucky that some of our adjacent states do have policies in place. How does our makeup of your recommendations compare to what they're doing, and are we going to be able to merge our operations with theirs so that they don't do something adverse to us and we don't do something adverse to them?

MR. DARLING:

Of course, the three states that surround Louisiana are doing this a little differently. Texas has a rather comprehensive approach to water management now, one that's continuing to evolve. Mississippi has a somewhat looser approach, and Arkansas has an even looser approach. However, of those three states the state of Arkansas is interested very much in working with Louisiana and Mississippi and Tennessee to manage groundwater resources. The State Legislature in Arkansas or the state assembly in Arkansas passed a law back in 1997, I believe it was, authorizing the Arkansas Soil and Water Conservation Commission to enter into compacts regarding the management of both groundwater and surface water resources with adjacent states. They have expressed an interest in working very carefully with Louisiana to develop a program to manage the water resources in

the Sparta. I think they have at one time or another approached Louisiana about this, but nothing has been done in that regard.

Certainly what we're setting up here is something that would lead, I think, to interstate cooperative agreements regarding the management of groundwater resources. The question is whether or not the representatives of other states, such as Texas and Mississippi, are going to be very receptive to that or whether or not they see much of a need for it. I think right now that you might find, and you will find with Texas that certainly there is an agreement regarding the management of surface water resources. I don't think at this point that you're going to find with Texas that there's much interest in managing groundwater resources cooperatively, until there's an overwhelming case made that, for example, the Gulf Coast aquifer in Texas is something that requires an interstate management agreement. You will, however, find that Arkansas is very receptive.

So it's a matter now if we get this DNR -- this office at DNR off the ground, also granting the office here in DNR the authority to negotiate the interstate management agreements with Arkansas that you need to have in order to have the cooperative management programs for the Sparta.

COMMISSIONER CEFALU:

Which state -- which aquifer in adjacent states is most impacted in Louisiana?

MR. DARLING:

Well, the Sparta.

COMMISSIONER CEFALU:

So, Arkansas?

MR. DARLING:

Certainly. The Sparta Aquifer extends from, of course, northern Louisiana into southern Arkansas. It's very extensive in Arkansas. The problems that the Sparta Commission and their consultants have detailed for the Sparta Aquifer in Louisiana also exists in Arkansas. There are, in fact, several counties in southern Arkansas that have been declared critical groundwater areas by the Arkansas Soil and Water Commissioner.

COMMISSIONER CEFALU:

So that would be the first one we'd want to try to have some inter-governmental agreement with?

MR. DARLING:

That would certainly be the most -- that would certainly be the most pressing area, because you do have large cones of depression in northern Louisiana that are extending northward into and merging with the cones of depression in Arkansas.

Now, Arkansas has embarked on a tax incentive program and on other programs to try to encourage users of groundwater to use -- to use surface water. They're now building lines to pump water from the Ouachita River into Union County, Arkansas to provide surface water for industries there. This is the type of program that Louisiana needs to look at and learn from with Arkansas, but also, Louisiana needs to sit

down and negotiate some type of agreement with their respective agencies in Arkansas to make sure that you're doing the same thing. Oftentimes you find that different states have different approaches to managing the same groundwater resources, and they work at cross purposes which each other and so they really don't end up accomplishing what they'd like to accomplish in the long term. Even in the state of Texas you find that with the proliferation of groundwater districts, you have adjacent groundwater districts operating at cross purposes with each other. It's important to make sure that where you have a common resource like that, that you approach this from a common perspective so that you're doing what's in the best interest of all concerned within those jurisdictions.

COMMISSIONER CEFALU:

My concern is that, you know, I don't want to have the state put itself in a position that allows the adjacent states to have better leverage in trying to attract larger businesses to those states because we're more restrictive in this resource. And that's a major concern. The one problem that I think y'all had was an electric facility trying to locate and tap groundwater. I'm sure those same companies could use surface water. It's a matter of placing them in the right place or getting the water to them, but I wouldn't want to see us put ourselves in a position that's going to restrict our commerce and our competitive edge with other states.

MR. DARLING:

I think no one on this team wants to see that either. I know that certainly no one on the Sparta Commission wants to see that as well. You have to ask yourself, what happens in the long run if you don't do something to try to establish some type of cooperative agreement with another state to manage those water resources according to a common scheme here, something that makes sense for the best of all concerned here.

Again, I've said this before and I'll say it again today, the states of Mississippi, Arkansas, and Texas are looking at water resources as an economic tool, a tool to drive economic development in the long term. So yes, they are initiating management programs that will assure businesses that come into -- that they're looking at, that there are adequate water resources, groundwater and/or surface water within their boundaries to meet their needs over the long term. There are areas of Louisiana where -- yes, Louisiana has abundant water resources, abundant groundwater and surface water resources, but there are areas where the water resources, primarily groundwater, are heavily stressed. If sensible, and I say sensible, management programs are not brought to bear, then over the long term you hurt yourself, both in terms of your availability for water for your current needs and your ability to attract businesses to sustain or to maintain a stable economic base within the state.

MR. SONNIER:

And addressing that, too, from a legal perspective of forming compacts, when a compact is formed and negotiated between states, the result is usually the legislatures of each state adopt the same legislation. There's an agreement here, and it becomes binding on each state to follow it.

COMMISSIONER CEFALU:

So it's to our advantage to have as many cooperative endeavors agreements as we could with those other states?

MR. SONNIER:

Certainly.

MR. DARLING:

I think with the state of Texas it's a matter of making your case. I know they're interested. Texas is still a state populated by cowboys and they like to do things their own way.

COMMISSIONER CEFALU:

I'm not worried about Texas. It's Mississippi.

MR. DARING:

I went to school there, so I know what they're like.

COMMISSIONER GAUTREAUX:

Fulbert?

COMMISSIONER NAMWAMBA:

Yeah. At the first conference we had to discuss about setting groundwater policy in Louisiana, we discussed a lot about data, and data was rated very highly as the most critical thing in terms of availability, accuracy, and data quality. So I'm

looking at this document and I feel it's good to incorporate in a statement that talks about availability of data as long as it does not contravene privacy, availability of data, and not just availability of data but to have what I call data standards, because without data standards any data is any data.

For example, you could have a statistical distribution of the data so that you don't get an average for a whole area or a whole aquifer, and then you don't know what are the peculiarities of different places. Now, and then between the different agencies, if we are going to consolidate, the water -- the office that funds water resources, I do feel that it's very important that the left hand knows what the right hand is doing, because that's a very big problem in this state in that you can have different agencies and they have different data, but if you don't have a standard way, you find you need to be a specialist or you need to have worked -- say you need to have either worked in DEQ or with DEQ to be able to access DEQ data, or have worked with DNR to be able to access DNR's data. But if an interagency committee set some standards, then it's possible to have sort of a standard way of accessing data. And have the water quality -- okay, if water quality remains in DEQ, that's fine, but I'm saying there has be to enough liaison, perhaps from just a monthly meeting in terms of the left arm knowing what the right arm is doing.

MR. DARLING:

Certainly, we agree there. When you start pulling data from different agencies, it's important to make sure that the data that you need, you know where they are and you know that you can access them easily. So not just the people working here at DNR, for example, but people in Louisiana who have questions about groundwater need to be able to do that.

Certainly -- it's been our opinion for a long -- well, since the beginning of this project, that there does need to be some type of standardization regarding the access to and the use of data in Louisiana. I think that gets to your point right there. I think early on there might have been some resistance to that. I think over a period of time as we've discussed this, different agencies in Louisiana are probably going to look at this a little differently because they realize now that there are a lot of data out there that they would also like to be able to lay their hands on a bit more easily than they are capable of laying their hands on right now.

MR. SONNIER:

Certainly there is some defined legal jurisdiction in the Department of Environmental Quality to safeguard the quality of water in such instances as where there is a hazardous waste facility site. They'll have jurisdiction, but we foresee that this agency, in maintaining and managing and planning for the use of water, will have input into these decisions as well. They may not have primary

jurisdiction, but certainly there's going to be interaction of this agency with other agencies that deal with water issues.

COMMISSIONER GAUTREAUX:

Okay, I don't see any Commissioner's motioning to be called on right now. Jackie? There you are. Jackie Loewer. Why don't you come on up, Jackie, so we can broadcast you too, and if everyone would just identify yourselves for our reporter, please.

MR. LOEWER:

Jackie Loewer with the Task Force representing Rice and Agriculture Committee. I'd like to ask a question. Under correlative rights in a critical groundwater area, you mentioned that historic users would be considered. How different from that is prior appropriation then? Is that kind of an overlap, or explain the differences?

MR. SONNIER:

I would say the difference is in prior appropriation you would say earlier use has a superior right to make the water or to take water, and that a newer use would have to get only what's left. As 446 is currently set up for critical groundwater areas, and as we're proposing that it be maintained, it is a proportional reduction. The only priority that is given is for consumption and for public safety and health. Everyone else would be subject to a proportional reduction by pumpage allowable and what they're allowed to take until you can bring sustainability back up. But it wouldn't be giving any

one party a superior right to take water because of earlier use. It would be proportional reduction. That's the primary difference between correlative rights and right of a prior appropriation.

MR. LOEWER:

Thank you.

COMMISSIONER GAUTREAUX:

Mike?

MR. WASCOM:

Mike Wascom from Citizens for a Clean Environment and LSU. I wanted to ask Brent what his recommendations or what y'all's recommendations say about public participation in these licensing processes in terms of public notice, public commenting, and public hearings, public right to request hearings?

MR. SONNIER:

I believe that the interested users, of course, the ones that could be physically impacted are what is considered interested users under the model we've put together. Interested parties would be those parties that do have a vested interest, including interest groups that are stakeholders and maintain the quality of water. You would have a right to come into a hearing process and make a statement. I don't know if you'd have the right to present actual evidence --

MR. WASCOM:

No, I understand that.

MR. SONNIER:

Right. You would have the right -- it's just --

the Office of Conservation does the same thing in oil and gas hearings. If you do have an interest, you have a right to speak.

MR. WASCOM:

Just for the record, you mentioned public trust, these agencies are public trust agencies, and also the Administrative Procedures Act, if you call them a license or you call them a permit or what, it's going to require some of that.

MR. SONNIER:

Certainly.

MR. WASCOM:

Thank you.

MR. STAHR:

I'm Charlie Stahr representing the Louisiana Pulp and Paper Association. I was curious as to what mechanisms, other than the one that you recommend, you considered for that, the management process? I guess I ask that against the backdrop that the preference feasibility analysis seemed to give permitting a low to lukewarm ranking, at best.

MR. SONNIER:

We're recommending -- I mean, procedurally and as a matter of law, I mean, conservation measures and public education measures that an agency is given a broad authority to administer do not have to be enacted. They have the authority, you can do all that. I was primarily concentrating on when you have areas where you would need to regulate, that this is why legislation has to be set down because you are

affecting the rights of the individuals who are affected. So the Legislature has the role in doing that. And we are recommending strongly that incentives, public education, conservation, take the forefront. It is only where regulation becomes necessary to safeguard the resource or in a correlative rights situation, if the Legislature goes there. I mean, what we're saying is there are three ways to go here broadly: stay with Rule of Capture and let 446 go by the wayside; or 446 probably just does what is required under the Public Trust doctrine of protecting the public interest and the state's welfare without regard to how people are affected financially; lastly, try a correlative rights regime. But there are other regimes that can be used. You can have priority right of appropriation. You already are there, new users are subject to your rights. You can have reasonable use which acts as zoning. We're sitting here with primarily agriculture. You're not moving that in here as a big industrial use in the middle of us.

Or you can have hybrid systems where you have permitting of certain types of wells. Industrial use is subject to permitting; whereas, other use may simply not be subject to it. There's a variety of ways to go. Why we proposed this correlative rights regime is it's a proven regime in the state. It will limit litigation, because a lot of issues have already been decided. It's on the books, really, in the Mineral Code. I mean, no one has argued it because I

don't think you've had a rights -- water rights fight in this state since 1963 when Adams vs. Grigsby was decided, then the Mineral Code came in.

So it's already an established doctrine. It follows pretty much what Act 446 does. It just puts an extra step in if the Legislature chooses to go there of safeguarding the individual's rights without regard -- if the public interest is in play; whereas, 446 looks -- you've got to have the public interest in play to say, I want my rights protected. I don't know if I answered specifically. I think Bruce probably --

MR. DARLING:

We're also recommending that the correlative rights apply really only in the critical areas. It's not something that we're recommending extend statewide and replace the Rule of Capture doctrine as we know it.

To answer the other part of your question, we did look at approaches of other states; Florida, Alabama, Mississippi, Arkansas, Oklahoma, Texas, New Mexico, Utah, and then frankly a few others. What we wanted to find here was where on the spectrum -- what kind of spectrum are we looking at with regard to water management issues and regulation, and what do we think would best fly in Louisiana. Louisiana is not a state that has had a history or a culture of regulation of water resources as you fine in Florida or other states that take a very heavy-handed approach to that. Our objective here was to craft something that would fall within the mid-ground but allow us to address the

issues of Louisiana without going overboard one way or the other. We felt like if we didn't make some attempt to recommend some change in the way that we manage water resources in Louisiana, we wouldn't have accomplished anything. On the other hand, we knew that we couldn't push and we didn't want to push for the adoption of approaches to management and regulation that we regarded as so heavy-handed that it would actually be counterproductive here for our effort here in Louisiana.

MR. SONNIER:

I'd like to correct one thing you said. Under the proposal it goes beyond critical areas.

COMMISSIONER GAUTREAUX:

That's what I was about to clarify.

MR. SONNIER:

It goes beyond critical areas. It is taking a look where you have competitive use, where someone is using a lot of groundwater and it's actually impacting someone who is making an active use that they cannot recover their just and equitable share. I might add this, too. That concept is in the Capital Area Groundwater statute right now. They define correlative rights just and equitable share that parties will have the right to take that amount of water with regard to the orders the Capital Area Groundwater District issues. I'll repeat, it's on the books in the Mineral Code. Someone just has not had an opportunity to argue it yet, I guess because we haven't had a water fight that brought it up.

COMMISSIONER GAUTREAUX:

Right. One thing that had been discussed at our last meeting, Charlie, I'm sorry I can't remember if you were here or not, but we had talked about the difference between being able to modify an activity as opposed to declaring a whole area critical, the balance of that process. Just another comment or two that had been made. Does that address your --

MR. STAHR:

Thank you. I'll point out one thing, I believe the PowerPoint overhead that you showed for the general permit said that it was for greater than 50,000.

COMMISSIONER GAUTREAUX:

Yeah, less than or equal to. You might want to change that direction.

MR. SONNIER:

Yeah, it's operating the other way. It's at or less than 50,000 gallons day.

COMMISSIONER GAUTREAUX:

Can I just see by a show of hands how many people would like to comment because we do want to hear all of them? Okay, Linda?

COMMISSIONER TAYLOR:

Can I ask a question while she's coming up?

COMMISSIONER GAUTREAUX:

Sure, go ahead. If we're going to be longer than 15 minutes, we'll have to take a five-minute break and come back. Go ahead.

MS. WALKER:

I had several small questions, and I guess we want to go for this. Do your recommendations address closing of wells in registering this?

MR. SONNIER:

There is already a law on the books as far as the closure of wells that they be properly closed. I mean, it's just -- the rules of the DOTD are going to directly apply regardless if the rules -- if administration stays in the Department of Public Works or is shifted into this new agency, none of those requirements and the broad array of regulations they have will change.

MS. WALKER:

Does it address -- would you address conversion of wells, conversion of uses? You know, if they were permitted or registered under one use and then later became converted to something else.

MR. SONNIER:

If you shift to a new use, it's not going to be considered a, quote, replacement well because a replacement well is specifically defined as you're staying at the same capacity, same interval, same screening level. If you change the use of that well, that is going to trigger a requirement that there be a re-registration of the well according to its capacity.

MS. WALKER:

And accumulation of wells, let's say I put in four of these just under 50,000-gallon wells per day as opposed to going for one large one.

MR. SONNIER:

That is the idea of registration compounded with a permit system. We're going to know you're putting in all these wells. It's not going to be, I'm going to stack wells on my property and then you go and --

MS. WALKER:

Circumvent?

MR. SONNIER:

-- we're not going to limit each one. I ,mean it's going to be screened because that's what Louisiana lacks right now is the database to be able to see what's out there and then do effective planning springing off that just knowing what's there. It's not going to be a situation where you're allowed to add well after well saying less than 50,000 and I can just keep going.

MS. WALKER:

This is to kind of to address an issue that Dr. Namwamba brought up earlier on quality. If we've got a well -- you know, we have the well registration program, is this tool going to be where it's easily accessible the other direction, let's say to DEQ, or Department of Health and Hospitals, so it would seem to me that this could be a tool that in the event there's a plume, there's an arsenic discovery or something of this nature that you'd -- would they be readily -- would this data be readily available to them to go out and deal with that?

MR. SONNIER:

My understanding in talking to individuals that have worked within several agencies of the state, it's

usually not the desire to have the data, it is the ability of the different computer systems that agencies use to actually interface. That's something I think that's being addressed as go down the road with computerization.

MS. WALKER:

I just think this could be a useful tool, particularly as it goes to your domestic users, while their your volume is maybe negligible, the health impacts maybe could be the greatest there.

MR. SONNIER:

The data ought to be publicly available to everyone, not just the agencies. I mean, all of the agencies I know are making efforts to have their data, a lot of the Office of Conservation data I can go out right now and get their records office off the SONRIS system routinely. They're out there.

MS. WALKER:

Thank you.

COMMISSIONER ASPRODITES:

Mike Taylor and then Ann, I think, had some comments. Ann? Did you want to say something? I'm sorry I thought you -- okay.

MS. PETTIT:

Ann Pettit. You had spoken about that oil and gas people are more sophisticated because they have a commodity that's worth a lot of money, and it's -- he had mentioned about the oil and gas people having more sophistication because they've been selling a product that they can make a lot of money on and so you need

the staff involved. But I did want to mention that in this century, probably within the next decade or two, water will be a huge commodity worldwide. And I think we need to be looking at that. And it's not really addressing the staff and people's capabilities and stuff. I just wanted to get it over to the recognition that water will be a commodity, whether we like it or not. We have a lot. And when you're talking about areas that aren't critical not being addressed, if a company or a state or something, a country, wants to come in and start purchasing water, one would assume they'd do it in an area that's not a critical area, but it could easily become so, or it could certainly affect the people in that area if that is how someone wants to make use of the water; not for a merchant power plant or something, but for drinking water for someplace else, like Texas or whatever.

I think we need to be aware of that, and I think the law needs to be able to address that. And we could be in trouble legally if the laws come after the fact as far as international trade is concerned. I don't know how that will be affected. I think that the state needs to be keeping themselves abreast of how the laws are working with the world trade -- international trade agreements because of this. Because we don't want the state to be sued for preventing someone from making money.

MR. SONNIER:

The things we've proposed, as far as that spectrum of going from critical to potential critical

stress areas, we are hoping will, if you have a large use that becomes established that with the data you are acquiring you can head off things by looking at that as very large use, what affect is it having on that part of the aquifer.

The larger question that you bring up is an interesting question from this standpoint. When you're making beneficial use between tracts that are -- typical uses of water, agricultural, municipal, we're proposing correlative rights that say you can take the water that you want unless you start affecting somebody else's ability. The question is going to get into from the standpoint of unitization is that if the type of user that she's talking about comes in and drills a humongous hole in the ground and just starts running water right out of this state, and he's got five acres of property he's got that well on, a substantial question arises, you're taking water from a lot of people to do that. It's going to be a question for the Legislature; do you establish commodity units to allow this water to be sold, but you certainly pay back to the people that are contributing to that out-of-state sale. That's where unitization will come to bear as to, are these people subject to just Rule of Capture and they can remove all the water they want to, or are they entitled to part of the proceeds on a royalty basis through a leasing structure that's common in oil and gas.

MS. PETTIT:

Also, would there be a consideration of an

extraction tax or whatever they have on oil and gas?

MR. SONNIER:

There are severance taxes that are employed. In fact, the Capital Area Groundwater Commission statute now and we've built in the proposed model, if you want to levy pumping charges on certain uses, that's up to the Legislature. They could elect to do it and give authority to the Commission, certain use wells, certain volume uses can be subject to pumping charges. But certainly a severance tax charge of that type as is commonly levied by the state on oil and gas production could be considered.

MS. PETTIT:

Yeah, because if water is a commodity --

MR. SONNIER:

If it is a commodity. And I think Jean Owen brought up a good point at the presentation that Bruce and I participated in on Monday, what about municipal uses, public supplies that may be taking a lot of water. You have to think of that from the standpoint that they're making a service to people, let's say in a four-square-mile area, they are the receiving the benefit of having that municipal facility. They're not having to drill their own wells. They're getting all kind of benefits, clean, readily available water that's being routinely tested, they're not having to maintain their own wells and you can go on and on. But really the user area for that is not simply the few acres that well may be on but everybody that they're servicing to allow a municipal use that may be

even selling water to other parishes to maximize the capacity of that facility to the benefit of everybody that's paying the water bills; as opposed to somebody that comes into your state, drills a big hole in the ground and takes off with the water somewhere else. That is obviously something that the Legislature needs to consider about the type of use that's being made where water is being sold as a commodity rather than just merely being used in various capacities by private wells.

COMMISSIONER GAUTREAUX:

Thank you, Ann. Mike, did you have another comment?

COMMISSIONER TAYLOR:

I guess I'm curious about one aspect of the study that I either haven't seen or haven't noticed and that's, we heard from Arkansas that they had to reduce their water consumption by something like 70 percent, and we are nowhere near that need. How far can we go with just conservation and education? Do we need to build this big, old, huge thing when more than likely we can get there without it?

MR. DARLING:

There are a number of figures that are available on that, the American Water Resources Research Foundation has conducted studies over the last five years and these are the most recent numbers I know of. There was a study in 1999 dealing with residential use, and there was a study that they sponsored in 2000 that deals with commercial and industrial use.

What they have shown is based on their surveys, and these are rather extensive surveys, is that through public education and conservation among residential users you can expect to see over the long run reductions of water usage of, say, anywhere from 20 to 30 percent, if not slightly more. Now, the issue with the residential users is that in most cases in Louisiana, and this is primarily with the exception of north Louisiana, but most of the residential users are not -- conservation programs for residential users are designed to relieve the stressor -- the stresses on the treatment and the distribution systems. And in places like north Louisiana and perhaps here in Region 3 in the Baton Rouge area where conservation programs come in handy is that insofar as you can target reductions over the long run you can also alleviate stresses on the aquifer. And so it has the dual benefit of alleviating stresses on your treatment and distribution systems, but also lessening the demand on the aquifers themselves.

Now, with regard to the industrial and manufacturing, conservation and education programs there have also been shown to be quite effective. They've been able to reduce on average water consumption, again, over the long run, and this is from five to ten years or so, of from 25 to 30 percent. Now, that depends. In some cases it's even higher. That depends upon the options that are available to the participants in this. I'll give you a classic case in point. The Smurfit-Stone

Container in Hodge, Louisiana, has been able to reduce its usage of water by 50 percent. I think that was a reduction of from 18 million gallons per day to 9 million gallons per day, and that's because they took a different approach to their use of water in their manufacturing processes. So the degree to which you can see the benefits of conservation and public education depend upon what options haven't been tried and what options are reasonably and economically available to public supply customers and also to industries.

Also not tried here in Louisiana are incentives. We've seen the impact of incentives in Arkansas with the tax credit program, and that's really only within a very small area of Arkansas, primarily with users over the Sparta aquifer groundwater. There are other types of incentives that cities use; pricing incentives, primarily, and other types of credit incentives, to encourage their customers to cut back their usage. We haven't seen that in Louisiana, and so it's untried, but we do have some basis for expecting if a reasonable tax incentive program is put together and approved by the Legislature that we should see -- we should expect to see a reasonable response among industries and among agricultural users to that option. I have been told that by people from industry, I've been told that by people from agriculture. And not more than a few months ago a representative of a company from north Louisiana told me we are very much interested in tax incentives. We

would like to use surface water, we would like to use different sources of water. We don't want the state, however, to hold a gun to our head and tell us that it's our responsibility to pay for all this ourselves. We did not get there because we did this; we all did this. And I agree with them. So to get to the last part of your question, do you need this large thing that we're proposing here. We're not really proposing something that is substantially larger than what you already have. What we're proposing is to consolidate the functions from one area under another area, and then to try to apply a commonsense approach to the management, a proactive approach to the management of water resources in Louisiana that centers primarily on public education, on conservation and on incentives. We think that in order for this to work that you have to have -- rather, that there must be some centralized effort here in Louisiana to make sure that everything we do in Louisiana with regard to the management of water resources now and over the long run is done with some degree of consistency and with concern for the overall economic welfare of the state. You know, can this happen if you have autonomous districts running around doing their own thing, I really don't think so. In the long run I think that Texas's experiment with reasonable conservation districts is bound to fail because the Water Development Board does not have the wherewithal or the will in this case to make sure that they all adhere to or follow some type of overall plan for the state of Texas.

COMMISSIONER GAUTREAUX:

If we have any more, we really have to take a five-minute break right this second. Hold the thought.

(RECESS)

COMMISSIONER GAUTREAUX:

Let's finish up.

COMMISSIONER ZAUNBRECHER:

My question was, what kind of public forum is planned after the plan is together so that we can have some discussion and visit with people and have some input from others? And I wanted that on the public record, and you know that Extension -- LSU Extension Service is always willing to coordinate meetings and do those things, and Farm Bureau and some others would be glad to, too. But we need to have public forum and public discussion.

COMMISSIONER GAUTREAUX:

Right. And actually we, just in our little staff meetings, discussed that same need, and the answer is, yes, we do need to have them, and what I'll ask is that the Outreach Committee can work with us and we'll coordinate among all the powers that be and come back with a proposal to have those kinds of public forums because they are going to be very important. And I've been contacted actually by a few organizations that are interested in helping do something like that, so thank you, for bringing that up.

Anybody else have any comments or questions? Well, all right. Thank you very much for -- similar

to the day Act 446 was passed it was good and rainy in here. We are talking about water policy on another good and rainy day. Thank you for braving the elements to come out and join us for what I thought was a very good discussion. Please look at the plan, circulate comments if you have additional thoughts or questions before our next meeting, which will be December 13th, and we're going to have two separate meetings; right? 9:30 in the morning for the Advisory Task Force, and where is that going to be held, Tony?

MR. DUPLECHIN:

That will be held in this room.

COMMISSIONER GAUTREAUX:

Here, both of them here, that's right, and then 1:30 for the Commission meeting in the afternoon. The old business? No old business. Richard?

COMMISSIONER DURRETT:

Back to the date, on the 13th are we going to vote on this?

COMMISSIONER GAUTREAUX:

I think what we'll be voting on is acceptance of the final report, have the consultants fulfill their recommendations, and also I think Tony may be about to talk about the development of our recommendations to present to the Legislature.

COMMISSIONER DURRETT:

But we're not going to vote on our recommendations at that time?

COMMISSIONER GAUTREAUX:

On the 13th what were we going to do? We were

going to try to, I think -- go ahead, Tony. Can we just let Tony address it here?

MR. DUPLECHIN:

Again, this kind of moves us in to new business. I have passed out to each of the Commissioners and have a few extra copies here and am going to try very hard to get it on the Internet tomorrow, a draft copy of the implementation plan that is due from the Commission, the Task Force and the Commissioner of Conservation to the Legislative Oversight Committees by the end of this month. This is a draft, and the only place it doesn't really say draft is on the cover. But I'd like for the Commissioners and the Task Force members to look this over, since you have it now, and this is a work in progress. We'll be working on it continually until next Friday when we meet on the 13th, and would like to get some approval from the Commission to proceed with this in getting it to the Legislature, to the Oversight Committees by the end of this month. I mean, by looking through this you can tell what direction we're taking, we would like to take, the Commission possibly would like to take in getting these recommendations to the Legislature.

COMMISSIONER GAUTREAUX:

What we had also talked about doing too, if for some reason we can't -- if we still need further discussion on this document, although we hope that once you have a chance to look at it, and we're going to be distributing this by electronic means to our

Task Force members; right?

MR. DUPLECHIN:

Yes. It will be posted, we'll send it out by e-mail, and the copies, as I said, I have here today. And it will be changing as the staff meets and goes through it more. If you read through this you'll see there are some sentences that end after three words, because we wanted to get something out to y'all today to look, and it pretty much covers everything that we're going to be addressing for the Oversight Committees.

COMMISSIONER ZAUNBRECHER:

I have a question. Will you also send whatever changes you make to the Task Force as you make them?

MR. DUPLECHIN:

Right, daily we will be sending out updates to this?

COMMISSIONER SPICER:

Brad Spicer. You will then plan on us voting on this next Friday?

MR. DUPLECHIN:

I would like for the Commission to vote on it.

COMMISSIONER DURRETT:

But if we have any suggestions --

MR. DUPLECHIN:

If there's no consensus, as Karen said, we may have to get together again after the 13th. And as Senator Hoyt had told us last month at the Task Force meeting, if it is the 15th he doesn't see where that's a problem, but just want to make sure we do get the --

COMMISSIONER GAUTREAUX:

We did say that we want to adhere to our legislative deadline, but also, with additional work with our Task Force committees we may even flush out our recommendations, but this could be the general framework of the plan if we concur that it's a good framework. We'll, I guess, vote to accept or not accept the contractors report at the next meeting.

COMMISSIONER IRION:

Karen, do you intend you want us to send e-mail comments on this draft?

COMMISSIONER GAUTREAUX:

Yes, that would be the best. If you can circulate them to all the commission members and/or staff task force members, if you'd like to share with them.

COMMISSIONER IRION:

And then e-mail comments to you before the 13th?

COMMISSIONER GAUTREAUX:

Right.

COMMISSIONER DURRETT:

E-mail them to you or to Tony?

COMMISSIONER GAUTREAUX:

You can mail them to Tony. I think we have a distribution list that we should be able to circulate them among all of us. I think that would be it. Charlotte, there is a Commission circulation list, right, that we could just -- I do what we could do --

MR. DUPLECHIN:

We will e-mail the comments out to everybody.

COMMISSIONER GAUTREAUX:

Right, yeah.

COMMISSIONER DURRETT:

The final engineering report, when do we get it -- when will we get it?

COMMISSIONER GAUTREAUX:

The engineering report?

COMMISSIONER DURRETT:

Right.

MR. HAMILTON:

Just to remind you, it's available right now for you, at least chapters 6, 7, 8, not 9, that will be there Friday; 10, 11, and 12, and the two new appendices are available to you if you would leave and go to your office, it's at www.LA-water.com. And while you will still get a hard copy -- I'm sorry, I said .com. It is .org, excuse me. Let me go through it again, www.LA-water.org. I'm sorry. And we're going to deliver to Tony Friday, I believe we're talking about 40 copies of part 2 that he will distribute after he receives those documents. But you don't have to wait until you get your copy, if you choose to look at it it's in pdf form.

COMMISSIONER IRION:

Are all the appendices on the web -- on the .org site now?

MR. HAMILTON:

For sure the new ones are in there. Yeah, I have a printout of the website here. This is what you would see if you would log in. I know you may not be

able to see it. You can come by after if you would like. But in the lower right-hand corner you have a choice, one being the complete version of part 1, and then a systematic selection of choices of chapters, a side in the box in the lower right-hand corner. If you'd like to look at this you can see it afterwards, but that's how you can access the documents.

MR. DUPLECHIN:

And we will be sending the copies that will require -- for out-of-town people, like Commissioner Durrett, Cefalu and Zaunbrecher by FedEx or some --

COMMISSIONER GAUTREAUX:

They will be overnighted to you. Okay, good. Thank you for a good meeting, and do I have a motion to adjourn? I'm sorry. And public questions or comments? Okay. Bill Cefalu moved to adjourn. John, second?

COMMISSIONER RUSSELL:

Second.

COMMISSIONER GAUTREAUX:

We're adjourned. Thank you.

CERTIFICATE

I, SUZETTE M. MAGEE, Certified Court Reporter, do hereby certify that the foregoing meeting was held on December 4, 2002, in LaBelle Room, Office of Conservation, Baton Rouge, Louisiana; that I did report the meeting thereof; that the foregoing pages, numbered 1 through 100, inclusive, constitute a true and correct transcript of the proceedings thereof.

_____

SUZETTE M. MAGEE, CCR #93079

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